

Appln. No.: 09/704,864
Amdt. Dated August 21, 2003
Reply to Office Action dated June 2, 2003

Remarks/Arguments

Reconsideration of this application is requested.

Claims 1-19 have been rejected by the Examiner under 35 USC §102(b) as being anticipated by Stefik, et al. (U.S. Patent No. 5,638,443).

Stefik discloses the following in his abstract:

"A system for controlling use and distribution of composite digital works. A digital work is comprised of a description part and a content part. The description part contains control information for the composite digital work. The content part stores the actual digital data comprising the composite digital work. The description part is logically organized in an acyclic structure, e.g. a tree structure. For a composite digital work each node of the acyclic structure represents an individual digital work or some distribution interest in the composite digital work. A node in the acyclic structure is comprised of an identifier of the individual work, usage rights for the individual digital work and a pointer to the digital work. Composite digital works are stored in repositories. A repository has two primary operating modes, a server mode and a requester mode. When operating in a server mode, the repository is responding to requests to access digital works. When operating in requester mode, the repository is requesting access to a digital work. A repository will process each request to access a composite digital work by examining the usage rights for each individual digital work found in the description part of the composite digital work."

Stefik discloses the following in lines 1-31 of column 4:

"A digital work is comprised of a description part and a content part. The description part contains control information for the composite digital work. The content part stores the actual digital data comprising the composite digital work. The description part is logically organized in an acyclic structure (e.g. a tree structure.) For a composite digital work each node of the acyclic structure represents an individual digital work or some distribution interest in the digital work. A node in the acyclic structure is comprised of an identifier of the individual work, usage rights for the individual digital work and a pointer to the digital work. In this representation, the description part may naturally be stored separately on a separate medium from the content part."

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Composite digital works are stored in repositories. A repository is comprised of a storage means for storing a digital work and its attached usage rights, an external interface for receiving and transmitting data, a processor and a clock. A repository has two primary operating modes, a server mode and a requester mode. When operating in a server mode, the repository is responding to requests to access digital works. When operating in requester mode, the repository is requesting access to a digital work. A repository will process each request to access a composite digital work by examining the usage rights for each individual digital work found in the description part. Access is granted if the composite digital work if access to each of the individual digital works can be granted. [sic] Alternatively, if access to all the individual digital works cannot be granted, partial access can be granted only to those individual digital works which grant access."

Stefik does not disclose or anticipate automatically making an archival copy of the protected material at a site remote from the consumer. The foregoing is claimed in steps c) and d) of claim 1, as amended, which read as follows:

- c) determining whether or not there is an existing copy of the protected material;
- d) storing an existing copy of the protected material automatically for archival purposes at a site remote from the consumer at the time the material was first obtained by the consumer.

Steps c) and d) provide for the situation when the site that sold the digital rights protected content stops vending the material for any reason, and the digital rights protected material on the consumer's computer is lost or damage, i.e., theft of the consumer's computer, damage to the computer, or computer storage medium, computer crashes, etc., the consumer will be able to obtain an archival copy of the material. This is unlike other back up technology in that it happens automatically at a remote site at the time the material was first obtained by the consumer.

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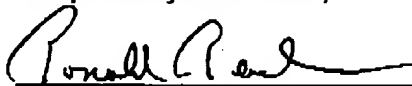
Furthermore, Stefik does not disclose step e) of claim 1 as amended, namely: e) creating a pointer for the consumer to point to the stored archival material.

Applicants' pointer does not point to the digital work. Applicants' pointer points to the stored archival material.

Stefik also does not disclose or anticipate step b) of claim 19, as amended. Step b) of claim 19 reads as follows: b) an archive coupled to the clearinghouse that automatically backs up content represented by the transactions at the time the content was first purchased.

In view of the above, claims 1 1-9, as amended, are patentable. If the Examiner has any questions, would he please call the undersigned at the telephone number noted below.

Respectfully submitted,



Ronald Reichman
Reg. No. 26,796
Attorney of Record
Telephone (203) 924-3854

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AUG 22 2003

GROUP 3500

PITNEY BOWES INC.
Intellectual Property and
Technology Law Department
35 Waterview Drive
P.O. Box 3000
Shelton, CT 06484-8000

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